

### Remarks

Claims 1-31 were previously cancelled. Please delete Claims 33 - 56 from the application without prejudice. In order to expedite the prosecution of this application, the applicant has withdrawn claims 33-56 without prejudice. As such, any objections or rejections to these claims are rendered moot.

#### a. Claim Objections

Claim 32 was objected to due to an inconsistency between the preamble and the claim body with regards to a phrase in the preamble stating "a mask with sensors." Claim 32 has been amended and the stated inconsistency has been removed.

#### b. Rejection based on 35 USC § 101

Claim 32 was rejected under 35 USC § 101 as being directed towards non-statutory subject matter. The Office Action stated that the claim language appears to include a human being within its scope. As amended, the claim language no longer includes the rejected language.

#### c. Rejection based on 35 USC § 102

Claim 32 was rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,199,550 to Wiesmann, et al.

Claim 32 has been amended to reflect that the mask is a breathing mask which covers only the nasal region of the face as opposed to Wiesmann which is a self contained

breathing apparatus which seals the entire face. Furthermore, the claim has been amended to include EEG sensors extended from the mask and positioned to monitor brain activity. Wiesmann does not disclose the use of EEG sensors.

As is clearly apparent from the patent, Wiesmann discloses a self contained breathing apparatus intended for use by firefighters in a smoke-filled environment. As such, the full face mask is necessary in order to protect the firefighters eyes from smoke and debris. The breathing mask of the subject invention would not provide the benefits of the full face-mask. Consequently, there is no teaching, motivation or suggestion in Wiesmann to substitute the self-contained breathing apparatus for a breathing mask as claimed herein.

Wiesmann discloses the use of ECG, O2 saturation, CO2 monitoring and temperature sensors incorporated into the self-contained breathing apparatus. These physiological parameters are necessary in order to determine if a firefighter is being overcome by smoke inhalation or heat. The present invention in some instances utilizes EEG to detect brain patterns related to sleep state. Such a use is not intended or taught by Wiesmann. Monitoring of EEG would be of no potential use to a firefighter, and as such, Wiesmann does not teach, suggest or provide motivation to include EEG with his mask.

#### d. New Claims

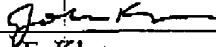
Claims 57-74 have been added to further distinguish the subject invention over the prior art. No new matter has been added in these claims.

Conclusion

Applicant respectfully submits that, as amended, the subject application is in condition for allowance, and allowance thereof is kindly requested. Should the Examiner wish to discuss these claims further, or should an Examiner's Amendment be needed in order for the claims to proceed to allowance, the Examiner is invited to contact the Undersigned attorney at the Examiner's earliest convenience.

Respectfully submitted,  
Compumedics Limited,  
by its Attorneys

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CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 1.8:

I hereby certify that this paper and any papers referred to herein are being sent via facsimile to Commissioner for Patents telephone number 703-872-9302 on September 17, 2003.

John F. Klos:

  
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